

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Eddie T. Lee,

Case No. 3:08 CV 310

Petitioner,

MEMORANDUM OPINION
AND ORDER

-vs-

JUDGE JACK ZOUHARY

Tim Bunsman, Warden,

Respondent.

Petitioner filed a Petition for Writ of Habeas Corpus on February 8, 2008 (Doc. No. 1). Respondent filed a Motion to Dismiss the Petition (Doc. No. 7). The Court has reviewed the Report and Recommendation of the Magistrate Judge filed January 13, 2009 in which the Magistrate recommends granting Respondent's Motion to Dismiss (Doc. No. 10). Under the relevant statute (28 U.S.C. § 636(b)(1)(C) (1982)):

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

In this case, the ten-day period has elapsed, and no objections have been filed. The failure to file written objections constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *United States v. Sullivan*, 431 F.3d 976, 984 (2005).

The Court adopts the Magistrate Judge's Report and Recommendation (Doc. No. 10) in its entirety, finding the Petition to be both time-barred and procedurally defaulted. The Petition (Doc. No. 1) is denied.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

February 6, 2008